SBCivil Writ Petition No.362/2003
(Sushila Mehta & Ors. v. State of Rajasthan & Ors.)

Date of Order :: 4th September, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.S.Saluja, for the petitioners.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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The petitioners are in employment of the respondents as Aanganwari Karyakarta from last about 1½ decade. The Director, Woman & Child Development Department, Government of Rajasthan, Jaipur by letter dated 16.8.2001 instructed all Deputy Directors, Child Development-cum-Officiating Project Officers, District Women Development Agency to refer the names of experienced Aanganwari Karyakartas for the purpose of appointment to the post of “Supervisors”. The maximum age limit prescribed under the letter dated 16.8.2001 for appointment to the post of Supervisors from amongst the Aanganwari Karyakartas is 43 years as on 1.1.2002. The Child Development Project Officer, Arnod District Chittorgarh by a communication dated 28.9.2001 instructed the petitioners to face selection proceedings on 4.10.2001 in the office of the Director, Woman and Child Development Department, Jaipur for the purpose of appointment to the post of Supervisors. The petitioners on the date referred above faced selection proceedings, however, they were not placed in the select list declared on 13.5.2002 being over age by considering age of 38 years as maximum age limit to be appointed as Supervisors.

Being aggrieved by the same this petition for writ is preferred claiming a direction for respondents to consider and appoint the petitioners as Supervisors by taking into consideration 43 years of age as on 1.1.2002 as maximum age limit.

The contention of counsel for the petitioners to substantiate the relief claimed is that the respondents under the letter dated 16.8.2001 initiated selection proceedings wherein the maximum age limit prescribed is 43 years, therefore, by a subsequent decision the maximum age limit reduced by the respondents is illegal.

In reply to the writ petition it is stated on behalf of the respondents that the selection to the post of Supervisors is required to be made in accordance with the Rajasthan Women & Child Development (State & Subordinate) Service Rules 1998 (hereinafter referred to as “the Rules of 1998”), wherein the maximum age limit prescribed for appointment is 33 years and the female candidates are having a relaxation of five years and as such a woman upto the age of 38 years could be considered for appointment as Supervisor. According to the respondents all the petitioners have already crossed the age of 38 years and, therefore, their candidature was rightly rejected from consideration to be appointed as Supervisors. It is further stated by the

respondents that the letter dated 16.8.2001 is having no application in present controversy being passed by an officer of Government of India.

Heard counsel for the parties.

At the first instance it is relevant to mention that the letter dated 16.8.2001 is not passed by any officer of Government of India but by Director, Woman and Child Development Department, Government of Rajasthan. The communication dated 16.8.2001 in quite unambiguous terms prescribes 43 years of age as on 1.1.2002 as maximum age limit to be considered for appointment as Supervisor. The stand of the respondents is that under the Rules of 1984 the maximum age limit prescribed for appointment as Supervisor is 38 years and, therefore, the petitioners are not entitled to be considered for appointment as supervisors. The respondents have also placed reliance upon a communication dated 30.4.2002 (Anx.R/2) wherein the maximum age limit is prescribed as 38 years as on 1.1.2002. The Rules of 1998 prescribes age of 33 years as maximum age limit to be considered for appointment as supervisor. However, under Rule 43 of the Rules of 1998 a power is given to Government of Rajasthan for grant of relaxation in maximum age limit.

From perusal of communication dated 16.8.2001 it appears that Government of Rajasthan after

considering all the circumstances including instructions given by Government of India exercised its powers for grant of relaxation in maximum age limit by raising it upto 43 years. Once a power to relax the age limit has been exercised, there is no just and valid reason to retreat from the same. The relaxation of five years for woman candidates beyond the age limit of 33 years is statutory relaxation and that relaxation does not preclude the Government from further granting relaxation in the maximum age limit under the Rules of 1998. Once a power has been exercised and relaxation has been granted in favour of the petitioners, the decision of the respondents to withdraw the same is without any sufficient reason is rightly unjust.

In view of it, this petition for writ deserves acceptance and, therefore, the same is allowed. The respondents are directed to consider the candidature of the petitioners by taking into consideration the age of 43 years as on 1.1.2002 as maximum age limit for the purpose of appointment as Supervisors and if they stand in merit, appointment be given to them as Supervisors.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.